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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
VAN HANDEL, MICHAEL P	
ART UNIT	PAPER NUMBER
2424	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/910,656	WATTS ET AL.	
	Examiner	Art Unit	
	MICHAEL VAN HANDEL	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *6/01/2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,6,7,9,10,13-15,18,20-22,26 and 29-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,6,7,9,10,13-15,18,20-22,26 and 29-37* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/01/2009 has been entered.

Response to Amendment

2. This action is responsive to an Amendment filed 6/01/2009. Claims **1-3**, **6**, **7**, **9**, **10**, **13-15**, **18**, **20-22**, **26**, **29-37** are pending. Claims **1**, **13**, **32** are amended. Claims **4**, **5**, **8**, **11**, **12**, **16**, **17**, **19**, **23-25**, **27**, **28**, **38-43** are canceled.

Response to Arguments

3. Applicant's arguments regarding claims **1**, **13**, and **32**, filed 6/01/2009, have been fully considered, but they are not persuasive.

Regarding claims **1**, **13**, and **32**, the applicant argues that Shoff et al. does not teach or suggest at least one time value within the duration of the video content program, the time value identifying a portion of subsidiary data as being associated with and to be displayed during a time segment of the primary content data. The applicant specifically argues that the video frame numbers of Shoff et al. cannot be interpreted as a "time value" as currently claimed. The

examiner respectfully disagrees. As noted in the Office Action mailed 3/03/2009, Shoff et al. discloses an interactive entertainment system that enables presentation of supplemental interactive content along side traditional broadcast video programs (see Abstract). Each subscriber of the interactive entertainment system has a viewer computing unit 24. The viewer computing unit is a set-top box (STB) 26 coupled to a television (TV) 28 (col. 4, l. 22-25). When a viewer tunes to a particular channel, the STB determines if the program is interactive. If it is, the STB launches an interactive support module (col. 3, l. 14-18). The STB then displays the supplemental content concurrently with the video content program (col. 3, l. 45-47).

As further noted in the Office Action mailed 3/03/2009, Shoff et al. discloses that interactive content can be supplied locally on a storage medium, such as a CD-ROM (col. 7, l. 61-67 & col. 8, l. 52-55). A content developer creates the interactive CD-ROM (col. 7, l. 63-65). Shoff et al. discloses that the supplemental content is synchronized with the program by using a frame count or measurable time ticks of the video (col. 7, l. 67; col. 8, l. 1-3; & col. 10, l. 7-17, 34-43). The supplemental content is displayed according to a display layout and synchronized to the program according to the frame count or timing of the program (col. 8, l. 1-3; col. 10, l. 7-17, 56-58; & col. 11, l. 59-65). The examiner notes that whether frame counts or timing ticks are used, the frame counts and timing ticks are synchronized to timing information inherent to the video content. That is, video is inherently played out over time with certain scenes played out at certain times. As such, the video inherently contains timing information. Additionally, video content is inherently played out at a number of frames per second. As such, frame counts are also timing information, since they indicate the number of seconds into the video. The examiner notes that the supplemental content could not by synchronized with the video content if there

was not any indication of frame count or timing in the video content. This is further illustrated in Tables 1 & 2 in columns 13 and 14 of Shoff et al. The HTML Tag TRIGGER defines when something in the supplemental content is to occur, which is based on the time in milliseconds since the last event (col. 14, l. 25-30). Without knowing how much time or how many frames have passed in the video, the TRIGGER would not occur. As such, the examiner interprets the frame counts and timing ticks inherent to the video content of Shoff et al. to teach time values, as currently claimed.

Further regarding claims **1**, **13**, and **32**, the applicant argues that Shoff et al. does not teach that the primary data is transmitted separately from the subsidiary data. The applicant specifically argues that Shoff et al. teaches that, where primary and subsidiary data are transmitted separately, the timing information is not transmitted with the primary data. The examiner respectfully disagrees. As noted above, the video content of Shoff et al. inherently has a number of timing ticks and a number of frames over time. Shoff et al. further discloses retrieving the interactive content locally from a storage medium (col. 7, l. 61-67) or receiving the supplemental content and digital data separately from the video stream and deconstructing the digital data to extract the timing information and display layout from the supplemental content (col. 10, l. 18-43). As such, the examiner maintains that Shoff et al. teaches "the primary content data encoding a video content program and including at least one time value within the duration of the video content program, the time value identifying a portion of subsidiary data as being associated with and to be displayed during a time segment of the primary content data, the primary content data to be displayed over a plurality of time segments and the primary data being transmitted separately from the subsidiary data," as currently claimed.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims **1-3**, **6**, **7**, **9**, **10**, **13-15**, **18**, **20-22**, **26**, **29-37** are rejected under 35 U.S.C. 102(e) as being anticipated by Shoff et al.

Referring to claim **1**, Shoff et al. discloses a method/medium/entertainment system comprising:

- receiving primary content data at a set-top system 26 (Fig. 2) from an external source 42, the primary content data encoding a video content program and including at least one time value within the duration of the video content program, the time value identifying a portion of subsidiary data as being associated with and to be displayed during a time segment of the primary content data, the primary content data to be displayed over a plurality of time segments and the primary data being transmitted separately from the subsidiary data (the examiner interprets the frame counts and measurable time ticks to be time values. The examiner further notes that these values correspond to frame numbers or timing inherent to the video content)(col. 6, l. 49-67; col. 7, l. 1-8, 61-67; col. 8, l. 1-3, 63-67; col. 10, l. 7-26, 34-43, 50-58; & Figs. 2, 3, 5, 6);

- accessing a storage storing a plurality of subsidiary data, including the identified subsidiary data, and retrieving the portion of subsidiary data based on the time value received with the primary content data (col. 3, l. 4-10, 42-47; col. 6, l. 16-22; col. 7, l. 1-8, 61-67; col. 8, l. 1-3, 38-44, 52-55, 64-67; & col. 10, l. 7-17); and
- generating an output signal including the primary content data and the identified subsidiary data for display, with the identified subsidiary data being displayed concurrently with the primary content data during the time segment (col. 9, l. 27-40 & Fig. 8c).

Referring to claims **2** and **14**, Shoff et al. discloses the method/medium of claims 1 and 13, respectively, further comprising:

- receiving the identified subsidiary data from the external source prior to beginning receipt of the primary content data (col. 3, l. 10-13, 42-47; col. 7, l. 61-67; col. 8, l. 52-55; & col. 9, l. 23-25); and
- storing the identified subsidiary data locally in the storage (col. 3., l. 42-47 & col. 8, l. 52-55).

Referring to claims **3**, **15**, and **26**, Shoff et al. discloses the method/medium/entertainment system of claims 2, 14, and 32, respectively, wherein receiving the identified subsidiary data comprises obtaining the identified subsidiary data from a local nonvolatile storage medium of the set-top system (col. 7, l. 61-67 & col. 8, l. 52-55).

Referring to claim **6**, Shoff et al. discloses the method of claim 1, wherein the primary content data comprises data of at least one of a television broadcast, a digital satellite broadcast, an Internet broadcast, and an audio-only broadcast (col. 4, l. 62-67 & col. 5, l. 1-5).

Referring to claims **7** and **18**, Shoff et al. discloses the method/medium of claims 1 and 13, respectively, further comprising determining the identity of the primary content data currently displayed via reading an identifier associated with the primary content data (col. 5, l. 61-67; col. 6, l. 1-28; col. 8, l. 62-67; & col. 9, l. 1-5).

Referring to claims **9** and **20**, Shoff et al. discloses the method/medium of claims 1 and 13, respectively, further comprising retrieving the identified subsidiary data from a remote server (col. 5, l. 12-23 & col. 7, l. 26-50, 61-67).

Referring to claims **10**, **21**, and **30**, Shoff et al. discloses the method/medium/system of claims 1, 13, and 32, respectively, wherein the identified subsidiary data comprises at least one of reference information regarding a program of the primary content data, biographical information regarding actors, guests or participants of a program of the primary content data (col. 5, l. 16-23).

Referring to claim **13**, Shoff et al. discloses a machine-readable medium having stored thereon programming instructions, comprising:

- instructions to receive primary content data at the set-top system 24 (Fig. 2) from an external source 42, the primary content data corresponding to a video content program and including at least one time value for the video content program, the time value identifying a portion of subsidiary data to be displayed

during a time segment of the primary content data, the primary content data to be displayed over a plurality of time segments, the primary data being transmitted separately from subsidiary data (the examiner interprets the frame counts and measurable time ticks to be time values. The examiner further notes that these values correspond to frame numbers or timing inherent to the video content)(col. 6, l. 49-67; col. 7, l. 1-8, 61-67; col. 8, l. 1-3, 63-67; col. 10, l. 7-26, 34-43, 50-58; & Figs. 2, 3, 5, 6);

- instructions to access a storage storing a plurality of subsidiary data, including the portion of subsidiary data, and retrieve the identified subsidiary data based on the time value received with the primary content data (col. 3, l. 4-10, 42-47; col. 6, l. 16-22; col. 7, l. 1-8, 61-67; col. 8, l. 1-3, 38-44, 52-55, 64-67; & col. 10, l. 7-17); and

- instructions to generate an output signal including the primary content data and the identified subsidiary data for displaying, with the identified subsidiary data being displayed concurrently with the primary content data during the time segment (col. 9, l. 27-40 & Fig. 8c).

Referring to claim **22**, Shoff et al. discloses the machine-readable medium of claim 18, wherein the instructions for reading the identifier are performed in response to a change in the primary content data currently displayed (col. 8, l. 62-67 & col. 9, l. 1-8).

Referring to claim **29**, Shoff et al. discloses the entertainment system of claim 32, wherein the storage database includes an identification of a remote server from which subsidiary

data may be retrieved and wherein the controller is to request retrieval of the subsidiary data from the identified remote server (col. 5, l. 12-23).

Referring to claim **31**, Shoff et al. discloses the entertainment system of claim 32, wherein the second controller is to determine the identity of the primary content data in response to a change in the primary content data currently displayed (col. 8, l. 62-67; col. 9, l. 1-8).

Referring to claim **32**, Shoff et al. discloses an entertainment system 62 90 (Figs. 4, 5) comprising:

- a data receiver 98 (Fig. 5) to receive primary content data from an external source, the primary content data including at least one time value identifying a portion of subsidiary data associated with the primary content data, the display of the portion of subsidiary data being synchronized with the display of the primary content data using at least the time value, the primary content data to be displayed over a plurality of time segments and the primary data transmitted separately from the subsidiary data (the examiner interprets the frame counts and measurable time ticks to be time values. The examiner further notes that these values correspond to frame numbers or timing inherent to the video content)(col. 6, l. 49-67; col. 7, l. 1-8, 61-67; col. 8, l. 1-3, 63-67; col. 10, l. 7-26, 34-43, 50-58; & Figs. 2, 3, 5, 6);

- a storage database to store a plurality of subsidiary data supplemental to the primary content data received from the external source prior to receipt of the primary content data, the plurality of subsidiary data including the identified

subsidiary data (col. 3, l. 4-10, 42-47; col. 6, l. 16-22; col. 7, l. 1-8, 61-67; col. 8, l. 1-3, 38-44, 52-55, 64-67; & col. 10, l. 7-17); and

- a controller coupled to the data receiver and the storage database to retrieve the identified subsidiary data based on the time value received with the primary content data (col. 3, l. 4-10, 42-47; col. 6, l. 16-22; col. 7, l. 1-8, 61-67; col. 8, l. 1-3, 38-44, 52-55, 64-67; & col. 10, l. 7-17), with the identified subsidiary data to be displayed concurrently with the primary content data during the time segment (col. 9, l. 27-40 & Fig. 8c).

Referring to claim **33**, Shoff et al. discloses the entertainment system of claim 32, further comprising a second controller coupled to the controller to combine the primary content data with the identified subsidiary data and forward the combined data to a display (computing unit 62 uses the received digital data in order to synchronize the supplemental data with the primary program so computing unit 62 must have video/audio logic)(col. 9, l. 66-67 & col. 10, l. 1-17, 34-58).

Referring to claim **34**, Shoff et al. discloses the entertainment system of claim 32, wherein the controller is further configured to receive and store the identified subsidiary data in the storage database (col. 8, l. 4-34, 52-55 & Fig. 5).

Referring to claim **35**, Shoff et al. discloses the entertainment system of claim 32 wherein the controller is to allow a user to interact with the storage database (col. 8, l. 4-34, 52-55 & Fig. 5).

Referring to claim **36**, Shoff et al. discloses the entertainment system of claim 32, wherein the controller is to allow a user to access a programming guide (col. 8, l. 38-44).

Referring to claim **37**, Shoff et al. discloses the entertainment system of claim 32, wherein the controller is to allow a user to toggle enablement of the subsidiary data (col. 8, l. 4-34, 52-55; col. 9, l. 42-59; col. 11, l. 45-47; & Fig. 5).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Kelley/
Supervisory Patent Examiner, Art Unit 2424

MVH